resume consideration of State's proposed revision of its benchmarks at this time.

The North Carolina plan, which was granted initial State plan approval on February 1, 1973 (38 FR 3041), is administered by the North Carolina Department of Labor. The exercise of concurrent Federal enforcement authority was suspended in North Carolina on February 20, 1975, with the signing of an Operational Status Agreement (April 15, 1975, 40 FR 16843). Limited Federal enforcement authority was reasserted on October 14, 1991 (56 FR 55193), but it is anticipated that this authority will be suspended in the near future. The plan was certified as having satisfactorily completed all of its developmental commitments on October 5, 1976 (41 FR 43901).

## Proposed Revision of Benchmarks

In June 1990, the North Carolina Department of Labor (the designated agency or "designee" in the State) completed, in conjunction with OSHA, a review of the compliance staffing benchmarks approved for North Carolina in 1986. In accord with the formula and general principles established by the joint Federal/State task group for the revision of the 1980 benchmarks, North Carolina reassessed the staffing necessary for a "fully effective" occupational safety and health program in the State. This reassessment resulted in a proposal, contained in supporting documents, of revised staffing benchmarks of 64 safety and 50 health compliance officers.

The proposed revised safety benchmark contemplates biennial general schedule inspection of all private sector manufacturing establishments with greater than 10 employees (based upon a computerized summary, by industry and size group, utilizing the 1989 Dun and Bradstreet listing of employers for North Carolina and Federal data on North Carolina's lost workday case rates for 1988) in Standard Industrial Classifications whose Lost Workday Case Injury Rate is higher than the overall State private sector rate (as determined by the Bureau of Labor Statistics' (BLS) Annual Occupational Injury and Illness Survey). The State has historically spent an average of 12.4 hours on such inspections, and each State safety inspector is able to devote 1,440 hours annually to actual inspection activity based on State personnel practices. A total of 4,870 establishments have been added to the initial general schedule safety inspection universe of 3,216 establishments based upon the State's analysis of past injury and inspection

experience to identify those additional employers or groups of employers most likely to have hazards that could be eliminated by inspection. In addition, inspection resources are allocated to coverage of mobile (e.g., construction) and public employee (State and local government) work sites, response to complaints and accidents, and follow-up inspections to ascertain compliance, based upon recent historical experience and an assessment of proper safety coverage in the State of North Carolina.

The proposed revised health benchmark contemplates general schedule inspection coverage once every three years of all private sector manufacturing establishments with greater than 10 employees (based upon a computerized summary utilizing the 1984 County Business Patterns and the 1987 Dun and Bradstreet listings for North Carolina) in the 150 top high hazard Standard Industrial Classifications (SICs) in the State having the highest likelihood of exposure of health hazards. These SICs are determined by a health ranking system utilizing data from the National Occupational Hazards Survey (NOHS), as published in 1977, which assesses the potency and toxicity of substances in use in the State. The State has historically spent an average 31.85 hours on such inspections, and each health compliance officer is able to devote 1,504 hours annually to actual inspection activity, based upon State personnel practices. A total of 2,955 establishments have been added to the initial general schedule health inspection universe of 2,028 establishments based upon the State's knowledge gained from inspection experience and other data on the extent of employee exposure to and use of toxic substances and harmful physical agents by individual employers or groups of employers, and the extent to which hazardous exposures can be eliminated by inspection. In addition, inspection resources are allocated to coverage of mobile and public employee (State and local government) work sites, response to complaints and accidents, and follow-up inspections to ascertain compliance, based on recent historical experience and an assessment of proper health coverage in the State of North

OSHA has reviewed the State's proposed revised benchmarks and supporting documentation, prepared a narrative describing the State's submission, and determined that the proposed compliance staffing levels appear to meet the requirements of the Court in *AFL-CIO* v. *Marshall* and provide for compliance staff sufficient

to ensure a "fully effective enforcement program."

## Effect of Benchmark Revision

Consistent with the 1978 Court Order in AFL-CIO v. Marshall and the procedures for implementation of benchmarks described by OSHA in the 1980 Report to the Court, if the proposed revised benchmarks are approved by OSHA, the State must allocate a sufficient number of safety and health enforcement staff to meet the revised benchmarks in order to receive final approval under section 18(e) of the Act. The proposed revised benchmarks of 64 safety and 50 health compliance officers meet North Carolina's Fiscal Year 1995 allocated compliance positions of 64 safety and 51 health officers. (Of those allocated positions, 30 safety and 40 health inspectors are completely funded by the State; the remainder are funded on a 50/50 basis with State and Federal funds.) OSHA does not anticipate any significant increase in its appropriations whereby it would be able to provide 50 percent Federal funding for North Carolina to meet its proposed revised staffing benchmarks.) Approval of the revised benchmarks would be accompanied by an amendment to 29 CFR part 1952, Subpart I, which generally describes the North Carolina plan and sets forth the State's revised safety and health benchmark levels.

## **Documents of Record**

A comprehensive document containing the proposed revision to North Carolina's benchmarks, including a narrative of the State's submission and supporting statistical data has been made a part of the record in this proceeding and is available for public inspection and copying at the following locations:

Docket Office, Docket No. T–015A, U.S.
Department of Labor, Room N–2625, 200
Constitution Avenue NE., Washington,
D.C. 20210.

Regional Administrator—Region IV, U.S. Department of Labor, OSHA, 1371 Peachtree Street NE., Atlanta, Georgia 30367

North Carolina Department of Labor, 319 Chapanoke Road, Raleigh, North Carolina 27603.

In addition, to facilitate informed public comment, an informational record has been established in a separate docket (No. T–018) containing background information relevant to the benchmark issue in general and the current benchmark revision process. This information docket includes, among other material, the 1978 Court of Appeals decision in *AFL–CIO* v.